STATEMENT OF EVERETT "BROWNIE" CARSON, EXECUTIVE DIRECTOR OF THE NATURAL RESOURCES COUNCIL OF MAINE,
On the U.S. Environmental Protection Agency's Proposed Rulemaking On National Standards for Reduction of Mercury Emissions from Coal and Oil-Fired Electric Utility Power Plants and Maximum Achievable Control Technology (MACT)
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My name is Brownie Carson. I testify here today on behalf of the Natural Resources Council of Maine, a citizen supported environmental advocacy organization with 8000 members and supporters. Thank you to Congressman Tom Allen for giving us all the opportunity to express our views on the critical environmental issue of proposed national standards for mercury emissions from electric utility power plants. We would like to thank you and the entire Maine Congressional delegation for your efforts on this and related clean air and environmental matters. We commend, for example, Senator Collins strong leadership in introducing legislation that would eliminate and retire mercury.

On the issue at hand, we conclude that both the two alternative proposals put forward by the U.S. Environmental Protection Agency ("EPA" or "Agency") for mercury emissions standards are environmentally unsound and legally deficient. These proposals go in the wrong direction.

These things we know:
(1) power plants that burn coal and oil release mercury and are the largest source of mercury released to the environment in the United States;
(2) the mercury emitted from these plants is transported downwind where Maine and other Northeast states receive a disproportionate share
(3) in the environment, mercury from power plant emissions is converted into methylmercury, the dangerous organic form of the element;
(4) methylmercury builds up and is magnified in the food chain making it a major environmental and public health hazard; methylmercury concentrations in fish are the worst pathway for human exposure;
(5) exposure to methylmercury, a potent neurotoxin, puts small children, infants and fetuses at risk of brain damage, learning disabilities and motor skills deficits;

(6) an unacceptably high proportion of women in Maine and nationally have blood levels of mercury considered too high for the safety of a developing fetus;[1] and
(7) Mercury also has insidious effects wildlife: Maine's loon population is at "high risk" with a negative growth rate attributed to mercury exposure.[2] Maine bald eagles have high mercury body burdens and the lowest reproductive rate of any major bald eagle population in the country;[3]

These facts are undisputed. EPA's own February 1998 report to Congress summarized how mercury emissions from power plants caused toxic exposures and grave threats to public health.[4]

There is a ready solution both technically and legally. The technical solution is simply to retrofit each of the 1,100 coal fired power plants with modern emission control equipment.

Commercially available technologies and techniques in use today achieve up to 91 percent emissions reductions over uncontrolled levels -- and do so at a cost of approximately 1/50th of a penny per KWh. Up to 98 percent reductions have been observed in tests of the most modern mercury controls.

These conclusions are supported by EPA's own analysis in 2001 which that found that the use of currently available pollution controls at each power plant could reduce total emissions by 90% by 2008.[5] The Northeast States for Coordinated Air Use Management in 2003 reviewed the pollution control technologies and affirmed 90% reductions can be achieved with existing technologies.[6]

Moreover, there are no legal obstacles to achieving these reductions. Section 112 of the Clean Air Act, that regulates hazardous air pollutants, sets forth the "maximum achievable control technologies" standard.[7] The Act contemplates control of emissions from hazardous air pollution sources equivalent to what is achieved by the best-controlled similar source in the industry. **When Congress amended the Clean Air Act in 1990, it specifically called for "maximum achievable" clean-up of major sources of toxic air pollution, including mercury.** It is beyond dispute that EPA has the authority under the

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[1] "Mercury in Maine: A Status Report", Maine DEP (2002) at 4 & fn 3 (10 to 20% of women of childbearing age have mercury levels that would put a developing fetus at risk.) The Centers for Disease Control and Prevention reports that 8%, or some four million American women of child-bearing age, have blood mercury levels that exceed E.P.A.'s 5.8 parts per billion standard. Centers for Disease Control, January 2003, Second National Report on Human Exposure to Environmental Chemicals.
[2] Evers, D. et al., "Assessing the Impacts of Methylmercury on Piscivorous Wildlife using a Wildlife Criteria Value Based on the Common Loon, 1998-2002" (2002).
[3] L. Welch, "Contaminant Burdens and Reproductive Rates of Bald Eagles Breeding in Maine," US Fish and Wildlife Service (1994).
[4] *See* 65 Fed. Reg. at 79,825-30; Stipulation for Modification of Settlement Agreement at 2, *Natural Resources Defense Council, Inc. v. EPA,* No. 92-1415
[5] U.S. EPA presentation to Edison Electric Institute. 12/4/01 (http://cta.policy.net/epamercury.pdf)
[6] Mercury Emissions from Coal-Fired Power Plants: The Case for Regulatory Action, November 2003.
[7] 42 U.S.C. § 7412 (d) (2000).

Act to adopt a standard requiring a minimum of 90% mercury emissions reductions at all of the nation's power plants.

In Maine, a remarkable consensus on mercury pollution has led to positive action.

In 1997, the Maine Legislature called for a report and plan of action to control mercury pollution. The State's goal, set back then, was "to ensure that, over time, Maine people and wildlife are able to enjoy the full use of the state's waters and fisheries" and to "make Maine's fish safe to eat and to protect our wildlife and other resources."

Over ensuing years Maine took a series of actions on mercury, including the following:

- Before 2000, we achieved mercury emission reductions of more than 90% at four municipal waste combustors achieved substantial reductions) meet or exceeding federal limits, or where inapplicable applying equally stringent state limits;

- In 2000, we closed the Holtra-chem, the heavily polluting chlor-alkli plant. In 2002, we made arrangements for safe removal and storage of 185,000 pounds of surplus mercury from the site;

- In 2003, we enacted a law that bans the sale of most mercury-added switches, relays, and measuring devices;

- In 2002, we enacted a landmark law to require automobile manufacturers to recover mercury-containing switches from vehicles before they are scrapped

When Maine's mercury auto switch law was challenged in Court, the State mounted a legal defense. On February 17, federal District Judge John Woodcock turned back the carmaker's challenge and upheld the auto switch law in its entirety.

The decision rejected all of the carmakers' claims, saying that burdens were reasonably "imposed on manufacturers in recognition of the fact that the need for a mercury switch recovery program existed solely by virtue of the manufacturers' incorporation of these mercury-laden components in their automobiles for roughly ten years after the industry's cognizance of the mercury disposal problem."

This is important, because it points the way to what the federal government should be doing with mercury pollution from power plants. Utilities should simply be made to clean up. That would be 90 percent reductions at all existing coal-fired power plants by 2008, that would bring total mercury emissions down from the current 48 tons to five tons annually. "EPA's proposal would still allow be allowing the release of 15 tons of mercury from the power plants in 2018."

Operators of power plants have been dodging pollution controls for decades. On the verge of achieving what the Clean Air Act was passed for, legal counsel for the Bush Administration and EPA say that they fear that if they require maximum achievable

controls, as specified by the law, the utilities will challenge the rules in court. Threat of a court challenge must not deter EPA from doing what is necessary to protect public health and the environment.

We urge EPA to abandon its weak proposals and instead follow the Clean Air Act as written. Genuine maximum achievable control standards are technologically feasible, legally sound and eminently defensible. We urge EPA to recognize the health, environmental and economic importance of this outcome to Maine and the nation. Thank you again for the opportunity to present our views on this important issue.